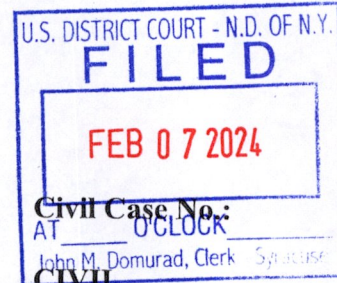


UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK



\_\_\_\_\_  
Plaintiff(s)  
Ishmeal Elmore  
vs.  
officer John Doe #1  
Syracuse Police Dept.  
Defendant(s)

Civil Case No.:  
AT O'CLOCK  
John M. Domurad, Clerk  
CIVIL  
RIGHTS  
COMPLAINT  
PURSUANT TO  
42 U.S.C. § 1983

Plaintiff(s) demand(s) a trial by: ☒ JURY ☐ COURT (Select only one).

Plaintiff(s) in the above-captioned action, allege(s) as follows:

5:24-cv-186

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: Ishmeal Elmore  
Address: Jamesville Correctional Facility  
6660 E. Seneca Turnpike  
Jamesville, N.Y. 13078

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: John Doe #1  
Official Position: officer, Syracuse Police dept.  
Address: 511 S. State St.  
Syracuse, N.Y. 13202

b. Defendant:

John Doe # 2

Official Position:

K-9 handler, Syracuse Police Dept.

Address:

Syracuse Police Department

511 S. State St.

Syracuse, N.Y. 13202

c. Defendant:

Official Position:

Address:

Additional Defendants may be added on a separate sheet of paper.

4.

#### FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

**Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint.** (You may use additional sheets as necessary).

(see attached documents)

(Statement of facts 1-7)

# Statement of facts

On 1/4/2023, at approximately 10:45 pm after noticing that I'd ran out of cigarettes I notify my girlfriend, Monica Landry, that I was heading to the convenience store in which she decides to accompany me. After buying my cigarettes and exiting the store located at 801 Butternut St. I Crack a few jokes briefly with a friend I knew outside the store before carrying on with the rest of my night. While departing from the store my girlfriend informs me that while briefly talking to my friend in front of the store the police had drove by giving me and my car "dirty looks". I thought that to be a bit odd but nonetheless I carry on about my travels going north up Butternut St. and making a right on Park St.

After getting to about Park St. and Merz ave my girlfriend informs me that she thinks its the same cops from the store now trailing behind us a few blocks away. While making

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A left onto Oak St. I can see a patrol car closing the gap between us very fast, undoubtedly speeding in this residential neighborhood. I continue north on Oak St. and make a right onto Rugby Rd. After turning onto Rugby Rd. I was pulled over by a Syracuse police patrol car near the intersection of Rugby Rd. and Helen St.

After about 10 minutes of waiting the officer (hereinafter John Doe #1) approaches my vehicle and asks for my license, registration, and proof of insurance. I provide him with all the documents requested and he informs me that he stopped my vehicle for excessive window tint. He then asks me if I had any drugs or guns in my vehicle in which I reply "NO". He then returns to his vehicle with my documents. Meanwhile my girlfriend says to me "Why is he asking about drugs and guns?", "I'm tired of being harassed by them, I'm walking home from here". "I suggest you put your phone on video record because our last incident with them was plainly illegal"

(referencing the excessive force and unlawful arrest situation that happened with me and Ms. Landry which provided the basis for a separate lawsuit I filed).

She then got out my car and proceeded to walk home while I set my phone to video record. A while later backup arrives and both officers simultaneously approach my vehicle. Officer John Doe #1 asks me to step out of my vehicle in which I comply immediately. I was then ushered to the rear of my vehicle where Officer John Doe #1 and his partner conduct a pat-frisk upon my person. After the frisk Officer John Doe #1 asks me where I was coming from and where was I headed. I truthfully tell him I was coming from the store on Butternut and was now heading home. He then tells me he was also at the store and while there he observed me "hand somebody something". I tell officer John Doe #1 that he is mistaken as I did not "hand" anybody anything. He insists that his observations were not mistaken.

(although he doesn't describe and remains vague about what he allegedly seen me handover). Seeing the conversation not getting anywhere I plainly tell officer John Doe #1 that I do not wish to answer any questions that do not pertain to this traffic infraction. He says OK well I'm calling the K-9 unit.

For over the next 20 minutes I'm left standing in the freezing cold waiting on the arrival of the K-9 unit. I am not allowed to re-enter my vehicle to gain any warmth and I express to officer John Doe #1 that I am getting very cold during this wait period. He pacifies me by lying and saying that the K-9 unit will be arriving shortly. Once the K-9 unit finally does arrive the exterior sniff around my vehicle takes an unusually long time. The K-9 and its handler (herein after Officer John Doe #2) make at least 3 dozen laps around the exterior of my vehicle in which every conceivable portion thereof is thoroughly sniffed multiple times by the K-9. During this period I continuously shiver, stomp my feet to keep the blood flowing to

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my toes, and complain to the many officers I'm now surrounded by (including officer John Doe #1) that I'm extremely cold only for it to fall on deaf ears.

While watching these dozens of laps being made without anything happening or the K-9 acting out of the ordinary officer John Doe #2, in his frustration, opens my car door and signals for the K-9 to jump inside my vehicle. Once inside officer John Doe #2 shuts my car door allowing the K-9 to freely run rampant inside the interior of my vehicle. My phone's camera videotapes the K-9 while inside my vehicle and the K-9 still does not positively alert to any contraband or act out of the ordinary. Eventually officer John Doe #2 opens the driver side door and lets the K-9 out.

After this I was told by officer John Doe #1 to sit and wait in my vehicle. I got inside my vehicle cold to the bone, feet and hands numb and left feeling totally violated. After many more minutes of waiting officer John Doe #1 eventually comes

to hand me my personal documents and traffic tickets. At this point in time officer John Doe #1 now informs me that I am free to leave. This whole situation lasted at least an hour and the prolonged exposure to the winter elements caused me to be very sick for the entire week following this incident, experiencing severe flu-like symptoms causing me to bed-ridden. In addition to the physical trauma I sustained from being sick as a result of this incident I also developed an unnatural fear of traffic stops and police encounters overall.

Whenever Police are now behind me on the roadway I have flashbacks of this incident triggering severe anxiety attacks. This causes me to dread driving for fear that I will once again be subjected to a deprivation of my Constitutional rights. The unnatural fear and anxiety towards police encounters, intensified by this incident, has heightened my Post traumatic stress disorder that I sustained in a separate police encounter (see, 5:23-CV-0508 (GTS/TWD)).

In Conclusion, this instant offense has caused me unwarranted psychological

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and physical trauma.

Respectfully Submitted,

Ishmeal Elmore

Ishmeal Elmore 02/03/2024

5.

### CAUSES OF ACTION

**Note: You must clearly state each cause of action you assert in this lawsuit.**

#### FIRST CAUSE OF ACTION

My prolonged detention beyond the time reasonably required to issue my traffic Citations Constitutes an unreasonable seizure in violation of the 4<sup>th</sup> amendment to the U.S. Constitution

#### SECOND CAUSE OF ACTION

The interior search of my vehicle by the K-9 Wasn't Supported by probable Cause or an exception to the warrant requirement and thus unreasonable in violation of the rights guaranteed by the 4<sup>th</sup> Amendment to the U.S. Constitution

#### THIRD CAUSE OF ACTION

Officer's Careless demeanor towards me being cold, shivering, and numb due to my prolonged and non-Consensual exposure to the winter elements which jeopardized my health constitutes deliberate indifference in violation of the 14<sup>th</sup> amendment to the U.S. Constitution.

6. **PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff(s) request(s) that this Court grant the following relief:

Compensation for physical and  
psychological damages in the amount of  
\$250,000.00 and such other and further  
relief this Court may deem just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 02/03/2024

Ishmeal Elmore  
Ishmeal Elmore  
Signature of Plaintiff(s)  
(all Plaintiffs must sign)

02/2010